

**Planning Commissioner's Written Comments
September 10, 2015**

Family Fare – Highway 55 (Z1400041)

Buzby: See case A1400012.

Hollingsworth: A resident was present at tonight's meeting to express concerns regarding this case. The resident has pointed out that flooding has occurred in this area in the past. Specifically that water accumulates along Carpenter Fletcher Road near its intersection with Highway 55, and a main concern is what effect additional impervious surface may have on the area. Would this exacerbate the flooding issue during thunderstorms, stream flooding, urban flooding, and hurricanes? The developer has pointed out that the applicant will be required to provide some level of management of storm water, but it is concerning because the area already experiences issues with flood waters.

The parcel in this case has been referred to by the developer as an "island" surrounded by flood-prone land. This can be seen on the floodplain map panel covering the area. (Available at www.ncfloodmaps.com) The area to be developed is surrounded by 100-year flood shading, and it is in the vicinity of floodway designations. The location of the potential fuel station is hatched with indication of future chance of flood conditions.

The resident has also noted that Durham Fire Station No. 12 is near the area of concern on Carpenter Fletcher Road, and that in the past, the fire station has had to pre-position a fire engine on the other side of the area prone to flooding because of the possibility of impassibility. I understand that the existing issue will persist, and nothing about this case would rectify that, but there is a possibility it could be made worse with any development along the intersection. It would be unfortunate to see any hindrance or disruptions to public safety operations.

It is also worth noting that with commercial use (specifically a fuel station) at the intersection many persons would be frequently travelling through the area with flooding concerns to fuel vehicles and patronize the business. If the business is patronized during a significant weather or high water event, this might increase the risk of traffic travelling through the potentially flooded area.

Last, but not least, are the residents in the area. The concerned resident at the meeting has expressed concerns about the floodplain boundaries changing due to development. Albeit one resident is present at the meeting, consideration should be given to others living around the potentially affected area.

Because we don't know with much certainty of the potential flood impact, because of the resident's concerns, and because flooding is a leading cause of weather-related deaths in the U.S., I personally think this application should be denied.

Gibbs: Voted to not approve zoning change.

Harris: Voted for.

Kenchen: Yes OI to CG see A1400012.

Miller: I voted in favor of this rezoning only because my motion to provide the council with a more specific recommendation involving conditions failed. I was unwilling to recommend against the rezoning simply because I could not convince my planning commission colleagues to urge upon the developer needed commitments to the his development plan rezoning. Before the hearing I had an opportunity to talk with some of the residential neighbors in the area. They were concerned that if this rezoning were to pass, commercial uses might spread north along Hwy 55 which would bring them closer to the homes in the subdivision off Loyal Avenue. They were concerned that commercial development along 55 might overlook the homes to the rear. During the hearing, one Loyal Avenue neighbor, a Mr. Ecklund, told us about the flooding history of the area. There are three branches that drain the low-lying land north of Carpenter Fletcher. All three pass beneath Carpenter Fletcher through culverts. Mr. Ecklund explained that in very heavy rain events, water backs up at the culverts and collects in the ditch along the north side of Carpenter Fletcher. This joins the branches and their combined flood waters back up behind Mr Ecklund's Loyal Avenue home. He expressed a very legitimate concern that with each additional development in this basin, water would run faster and increase the risk that his home (and those of his neighbors), might be damaged or rendered less viable by flooding.

To respond to these concerns, I asked the commission to recommend the approval of the rezoning only if two commitments were added to the project by the time it reached the council for a vote. The first condition was a height limit of 35 feet. The purpose of this was to permit the developer's intended use while addressing the neighbors' concerns about being overlooked by commercial uses on Hwy 55. I had discussed this with the developers immediately before the meeting and they were entirely content with it. In response to my questions following the hearing, they were happy to proffer the height limitation as a commitment. The second commitment I think is required is that the development plan should be expanded to take in the developer's whole property and not just the building site. The expanded development plan should contain commitments that the developers' property to the north and to the west of the building site will be left natural and undisturbed. The effect of this would be to confine the commercial node at the subject property's northern boundary, to increase the effectiveness of the buffer between the homes in the Loyal Drive area, and to make sure that the stream that runs behind the proposed Family Fare site is not disturbed further in the future. This might help mitigate the potential that flooding will increase along this branch. (It is important to note that the subject building site has been much altered over time. It has been raised with fill, forcing the creek's overflow on to the low-lying land to the west. Further disturbance of the land along this branch can only have a worsening effect on the flooding problem.) The developer responded that he could not at that moment commit to expanding the d-plan without consulting the staff about the implications it would have on costs and time, but that as he had no intention of developing the areas I was seeking to protect, he would make the commitments I requested if, in the planning director's opinion, it would not require him to start all over again.

My motion failed 5-7. I suspect that some of the commission members voted against because they are unaccustomed to sending the council advice along with an up or down recommendation. Rather than leave the decision with a negative recommendation to you and knowing that many of the planning commission members would be unhappy with such a recommendation, I made a subsequent motion to reconsider the case so it could be voted on up or down. This motion passed. In future, I hope to convince my fellow planning commission members that because we are an advisory body, we should give advice. Although my original motion failed, I still urge the council to approve this rezoning only with the additional commitments I have suggested.

Riley: Recommend approval pending text commitments regarding a limitation on the 35 'canopy height'. Commitment to a text commitment to leave adjacent property as is also a contingency for approval.

Whitley: I vote to approve.

Winders: See comments for A1400012. Applicant verbally agreed to text commitment pledging not to develop the remaining 2/3 of the property not included in the development.

Vann: A motion to delete amendments to the request was later changed to a straight up or down motion. I voted no due to concerns raised by residents.